



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,314	01/10/2001	Dan Mielke	9458.4884	9864

7590 07/16/2003

Dale Paul DiMaggio, Esq.  
Malin, Haley & DiMaggio, P.A.  
1936 South Andrews Avenue  
Fort Lauderdale, FL 33316

EXAMINER

KUHNS, ALLAN R

ART UNIT	PAPER NUMBER
----------	--------------

1732

DATE MAILED: 07/16/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/760,314

Applicant(s)

MIELKE ET AL.

Examiner

KUHN

Group Art Unit

1732

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE(3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

☒ Responsive to communication(s) filed on MAY 2, 2003

☒ This action is FINAL.

- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

☒ Claim(s) 1-27 is/are pending in the application.

Of the above claim(s) 19-20 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-10, 12 AND 21-27 is/are rejected.

☒ Claim(s) 11 AND 13-18 is/are objected to.

☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some\* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

☐ Copies of the certified copies of the priority documents have been received

in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 1732

1. Applicant's election without traverse of Group I, claims 1-18 in Paper No. 6 is acknowledged.

2. Claims 19-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made without traverse in Paper No. 6.

3. It is suggested that Applicants amend their independent claims by stating "We claim:" prior to any numbered claim and then beginning claims 1 and 27 with "A method ..".

4. The amendment filed May 2, 2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Figures 5 and 6 and the discussion of Figures 5 and 6 in the specification.

Applicant is required to cancel the new matter in the reply to this Office Action.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 6, 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Graham et al. in view of Hordis as set forth in the rejection of claims 1-6 in the previous Office action. Reliance also on Hegg was eliminated due to Applicants' amendment. Hordis teaches

Art Unit: 1732

the use of an adhesive at column 4, lines 48-50. It is submitted that the adhesive is “structural” in nature because it connects the inner and outer transom walls. Forming and using a hole to introduce foam, as in claims 22-23, is well known and would have been obvious to one of ordinary skill in the art in order to provide foam into the hollow hull space. Hordis teaches or suggests curing, as in claim 24, and it is submitted that absorption of any stress created by the foam, as in claim 25, is inherent in the structure produced by Hordis. The prior art relied upon does not teach or suggest the use of stringers, and it is submitted that the need for such stringers is reduced or eliminated.

7. Claims 5 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graham et al. as applied to claims 1-4, 6 and 22-27 above, and further in view of Waldock. At column 9, lines 24-47, Waldock discloses the aspect of using a methacrylate adhesive to secure portions of a boat hull. It would have been obvious to one of ordinary skill in the art to use such an adhesive in forming a hull in a process of the prior art relied upon in order to accommodate expected loads encountered in a marine or boating environment.

8. Claims 7-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graham et al. in view of Hordis as applied to claims 1-4, 6 and 22-27 above, and further in view of Kurtz et al. as set forth in the previous Office action. The structure illustrated by Hordis teaches or suggests forming mating portions located on bulk fiberglass or bulk fibers and resin, as in claim 12.

Art Unit: 1732

9. Claims 11, 13, 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Applicants' arguments filed May 2, 2003 have been fully considered but they are not persuasive. Applicants argue that Graham does not teach the use of an adhesive at all and Hordis merely teaches the use of an adhesive to join a top piece and a bottom piece. This is not persuasive because the top piece and bottom piece are structural in kind. Applicants also argue that Hordis fails to teach having a structural adhesive creating a structural bond which eliminates the need for a stringer to fortify the hull and that nothing in Hordis teaches a structural bond that strengthens the hull against internal pressures of the foam used to fill the hull. This is not persuasive because Hordis does not teach that it is necessary to provide stringers to strengthen the hull, and one of ordinary skill in the art, upon reading Hordis would have expected the adhesive used in the process of that reference to sufficiently withstand pressures resulting from foam introduction into the hull since adverse effects due to foam introduction in the hull are not reported by Hordis. Applicants also argue that Hordis fails to teach the use of a methacrylate adhesive, but such is taught by Waldock, now relied upon.

Applicants object to the assertions made by the examiner concerning claims 2 and 4, but it is the examiner's position that some gap, whose dimensions would be readily determined by one of ordinary skill in the art, would be required to provide room between mating portions in order to receive the adhesive. If there is no gap, how does the adhesive get between walls 15 and

Art Unit: 1732

17 of Hordis? The examiner stands by the assertion that providing reinforcement is well known and would have been obvious, particularly in situation where accessories must be securely positioned.

Applicants argue that the Office has used the claimed invention as a reference against itself. This is not so. The examiner has merely stated that use of reinforcements is well known and would have been obvious in the process of the prior art relied upon.

Applicants argue that no rejection was made for claim 14. But claim 13 is objected to and claim 14 is dependent on claim 13.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 1732

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allan Kuhns whose telephone number is (703) 308-3462. The examiner can normally be reached on Monday to Thursday from 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino, can be reached on (703) 308-3853. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7718.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

*Allan R. Kuhns*  
ALLAN R. KUHN  
PRIMARY EXAMINER AU 1732  
7-10-03